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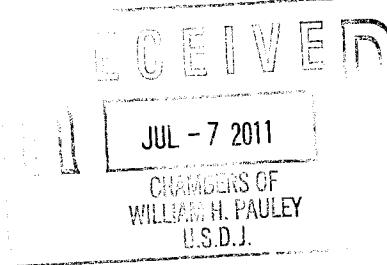
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July 6, 2011

**By Facsimile & Fed Ex**

The Honorable William H. Pauley, III  
United States District Court for the Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 2210  
New York, NY 10007-1312



RE: *In re Currency Conversion Fee Antitrust Litigation*, MDL No. 1409, Master File  
No. M 21-95 (S.D.N.Y.)  
This document relates to:  
*Ross, et al., v. Bank of America, et al.*, No. 05 CV 07116 (WHP) (S.D.N.Y.)

Dear Judge Pauley:

We are writing on behalf of the Citigroup and Discover Defendants (collectively, the “Defendants”) in response to plaintiffs’ request for additional time for the parties to file their responses to the cross-motions for summary judgment – a request to which we object in part. We regret having to do so, because we believe that matters of this sort should be ones that parties acting in good faith, and with professional courtesy, should be able to iron out among themselves. Unfortunately, that has not been possible here.

Defendants object only in part to plaintiffs’ request. Under the current schedule, the responses are currently due on July 8 and the replies are due on August 5, with a hearing scheduled for September 9. [Dkt. 292]. Defendants have no objection to plaintiffs’ request for a three-day extension through July 11 for the parties to serve their response briefs (and a four-day extension through July 12 for filing). The parties could not, however, reach agreement over a new proposed reply deadline, for reasons explained below.

Plaintiffs’ request for an extension proposes that the time period for the filing of reply briefs be extended by three days, *i.e.*, from the current due date of August 5 to August 8. (We note that this proposed *filing* extension for reply briefs is one day less than the four day filing extension plaintiffs seek for their response.) However, counsel for the Citigroup Defendants has specifically informed plaintiffs’ counsel that this alteration of the reply deadline will not work because lead counsel primarily responsible for the Citigroup Defendants’ reply (Mr. Graham) will be out of town on a previously scheduled family vacation beginning on Friday afternoon,



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August 5, and returning on Sunday, August 14. (The timing of the vacation was specifically set to follow the previously established deadline for the filing of reply briefs.) Therefore, Defendants proposed that the deadline for reply briefs be extended to the week of August 15, *i.e.*, *after* Mr. Graham's return. Despite the fact that it is their request for an extension that is creating the scheduling issue, plaintiffs refused that offer or any other similar accommodation. Instead, they have proceeded to propose that reply briefs be due on August 8 while knowing that this prejudices the Citigroup Defendants.

Plaintiffs' current proposal is prejudicial because it effectively shortens the time that the Citigroup Defendants would have to file their reply brief in support of their motion for summary judgment. Because Mr. Graham is leaving on August 5, plaintiffs' proposed extension is effectively no extension at all for the Citigroup Defendants from the current August 5 deadline. In light of the foregoing, plaintiffs' proposed August 8 deadline is not reasonable.

Ironically, plaintiffs claim that the extension they seek is merited due to "unanticipated familial and business conflicts among plaintiffs' counsel," but then apparently dismiss the effect of their own requested change on defense counsel's preexisting familial obligations. Plaintiffs purport to justify this one-sided approach out of a concern that further extending the deadline for reply briefs could "force a continuance of the September 9, 2011 argument date...." But defendants do not seek any adjournment of the September 9 hearing date, and have made that clear to plaintiffs. Even more fundamentally, though, plaintiffs' purported concerns do not justify placing the burden resulting from *their* request to change the schedule on defendants.<sup>1</sup>

To give *all* the parties a fair amount of time to complete the briefing on summary judgment in light of plaintiffs' requested extension, Defendants respectfully request that the Court enter the following schedule:

July 11:	For serving of responses to summary judgment motions	
July 12:	For filing of responses to summary judgment motions	
August 17:	For serving of reply briefs in support of summary judgment	
August 18:	For filing of reply briefs in support of summary judgment	

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<sup>1</sup> In their letter (p. 2), plaintiffs also refer to the deadlines having been extended before at defendants' request "with plaintiffs' consent." What plaintiffs neglect to mention in that regard is that they conditioned their "consent" on defendants agreeing to reduce their period for filing reply briefs from six weeks (the period previously provided by this Court's order) to four weeks. Thus, the effective shortening that plaintiffs seek to require of the Citigroup Defendants with respect to the period for reply briefs is on top of a prior substantial shortening of that period.



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An August 17 service deadline for reply briefs would provide three days following Mr. Graham's return for work on replies, a period equivalent to the three days that the Citigroup Defendants would otherwise effectively be deprived of under plaintiffs' proposal.

If your Honor agrees with this proposed schedule, we would appreciate it if your Honor would please indicate "so ordered" on a copy of this letter and file the same with the Clerk.

Respectfully submitted,

A handwritten signature in black ink that reads "Theodore R. Scarborough".

Theodore R. Scarborough

cc (*via email*): All Counsel of Record

The briefing schedule on p. 2 is Adopted.

SO ORDERED:

A handwritten signature in black ink that reads "William H. Pauley III, U.S.D.J.". Below the signature, the initials "U.H.P." are handwritten.

7/8/11